

BOARD OF PUBLIC WORKS

Vision

The Board of Public Works exists to improve the quality of life of the customers we serve.

Mission

We are dedicated to providing our current and future customers with utility and other value added services in a safe, reliable, and economical manner consistent with sustainable growth, community involvement, and environmental stewardship.

**Regular Meeting of the Board of Public Works was held in Lewes City Hall, Council Chambers,
114 East Third Street, Lewes, Delaware on Wednesday, December 4, 2013 at 7:00 PM.**

Board Members

C. Wendell Alfred
D. Preston Lee, P.E.
Jack Leshner
James N. Richmann
A. Thomas Owen

Ex-Officio Members

James L. Ford III, Mayor
Darrin Gordon, General Manager
Glenn C. Mandalas, Legal Counsel
Heidi Wagner, Assistant General Manager

Others Present:

Ring Lardner, Davis Bowen & Friedel (Representative for Lifetime Living)
Rob Morgan, Lewes HOA Board Member

1. Welcome, Call Meeting to Order, and Pledge of Allegiance.

At 7:00 PM, President Alfred welcomed everyone, called the meeting to order and led Pledge of Allegiance. A moment of silence was observed for our troops serving our country.

2. Roll Call.

President Alfred stated that all Board members, Darrin Gordon, General Manager, Assistant General Manager Heidi Wagner, Mayor James Ford, and Legal Counsel Glenn Mandalas are present.

3. Revisions and/or Deletions to the Agenda.

No revisions and/or deletions.

4. Consent Agenda

- a) Receive the General Manager Monthly Report
- b) Receive Severn Trent Report for August
- c) Receive President Report – To Be Removed
- d) Receive Vice-President Report
- e) Receive Secretary Report
- 1.) Approval of October 23, 2013 Regular Minutes.
- f) Receive Treasurer Report
- g) Receive Asst. Treasurer Report

President Alfred requested that the President's Report be removed. Jack Leshner motioned to approve the Consent Agenda, Tom Owen seconded, and motion carried unanimously.

Before the meeting proceeds to Old Business, President Alfred presents a video on flushable wipes. Inappropriate items being flushed are costing municipalities hundreds of thousands of dollars. The Board believes it to be necessary to promote the harm of these actions through a marketing campaign, including a mailer to the customers, as well as a possible article in the Cape Gazette.

OLD BUSINESS

5. Open forum/general discussion on accepting the Lifetime Living, LLC, request to reduce performance bonds for Canary Creek. (D. Gordon, R. Lardner, DBF)

INFORMATION:

Ring Lardner, on behalf of Lifetime Living, LLC, the developer for the Canary Creek subdivision, said all the infrastructure for the subdivision is in place except for the top coat of the asphalt. Per the letter in your packet, there are seven line items to go

through. First, the onsite water distribution system is in place, and the request is that the performance bond be returned back to the developer. Second, the onsite sewer is installed and is operational and has been for over two years now, and the request is that the performance bond be returned back to the developer. The third item is storm drainage. Although the storm drainage is completely installed, we are requesting a reduction of that performance bond by 10% because the system has not been inspected yet and there may be some adjustments. We are formally requesting conditional acceptance for the onsite water distribution. I have picked a date of August 13, 2013. That is the date we received approval to operate. The warranty period would end on October 13, 2014. I used the same date for the onsite sanitary sewer as the water sewer because they go together. We request final acceptance for the pump station, as it has been operational for two years. Included in the packet are all the transfer documents that are needed to execute the transfer of that pump station and parcel to the BPW. Regarding the warranty bonds, we are requesting the onsite water distribution place the warranty bond with 10% of construction costs, which is \$16,416.70, which would replace the performance bond. The onsite sanitary sewer would have a maintenance bond of \$23,219.00 to cover the one year warranty period for the system. We will coordinate with Darrin and his staff regarding the roads, and replace performance bonds with warranty bonds.

Darrin Gordon said what I am requesting of the Board this evening is that I believe that is an appropriate request. There is also an email in the packet that I received from Rick Davis, the RPR for the project and representative for URS. He has looked at this and said that the statements Mr. Lardner has made are correct. I am requesting approval from the Board to release the bond, and I will execute the documents. Rick Davis made note in his letter, which Mr. Lardner is aware of, that there is some sediment in the storm drain and there could be some flushing but we will see how the paving goes. We would still be holding a small portion of that bond in case there is an issue with that. It is my recommendation to the Board that we approve this request.

DISCUSSION:

Preston Lee asks about the statement of not paving this winter because of the cold temperatures.

Ring Lardner explains the reasons behind this decision.

James Richmann said the bond on the maintenance of the storm drainage system is being reduced to 5% whereas the others are 10%. I am a little concerned that since the final transportation top coat hasn't been put on yet, that there may be an incursion of debris from the paving going into the storm drainage system. Is 5% sufficient?

Darrin Gordon said I refer to Rick Davis' letter in which he says that he believes that the retained bond amount will cover such expense if the flushing has not been completed.

Ring Lardner said that there will be a maintenance bond in place, so there will be additional protection.

ACTION:

James Richmann motioned to accept the request by the developer of the Canary Creek subdivision to reduce the performance bonds in accordance with their letter dated November 7, 2013 in consideration of the General Manager's recommendation and the URS engineer's report dated November 8, 2013 or thereabouts. Preston Lee seconded, and the motion passed unanimously.

6. Open forum/general discussion to accept the URS proposed Resident Project Representative (RPR) services for the Canal Crossing project. (D. Gordon)

INFORMATION:

Darrin Gordon said we have been working on replacing one the main lines in Canal Crossing that goes from the Lewes Dairy across to the beach side, and also ties in with replacing a 70 year old pipe. We are submitting permits for approval to the State. We have taken an archaeological study, and that is now in the hands of the State. We are moving forward to the next step of going out to bid. I have requested an estimate from URS to do the RPR work, to make sure that it is built according to specifications and that the BPW is protected. The amount of this bid is \$26,600.00, which is above my authority to approve, so I request that you approve this bid amount.

ACTION:

Preston Lee motions to accept the requested Task Order #24, modification of URS's contract for professional services for the Canal Crossing project as stated in the document dated November 22, 2013. Tom Owen seconded, and the motion passed unanimously.

NEW BUSINESS

7. Open forum/general discussion of Resolution 07-002, -Procedure for application for Utility services outside the Lewes city limits, with two proposed changes. (D. Gordon)

INFORMATION:

Darrin Gordon said that in 2007 there was a resolution made which has to do with the application for utility service for areas beyond the limits of the City of Lewes. In that resolution, it set forth procedure by the BPW that the actions that a person outside the city limits would take in order to receive our services. I am proposing two changes to this. The third paragraph talks about a pre-annexation agreement. Point Farm, a developer, has provided us a pre-annexation agreement. I then take it to the Mayor to give to him as a tool that the City uses. That is the only involvement the BPW has. I believe there is a flaw in this paragraph, as there is no time frame set as to when that person will sign and provide that pre-annexation agreement to the BPW. I would like to

add “prior to the start of utility construction” to the first sentence in the third paragraph. It would now read: “The property owner of the premises to be served by the Board of Public Works shall sign an agreement with the City of Lewes prior to the start of utility construction which shall provide for annexation to the City.” It continues with the same verbiage we have used in the past. The second change is on the very last line. The last paragraph says that when a person or a developer puts a line in the ground and if there are other people or organizations which might tie on to and use that line and benefit from it, they can have an agreement and receive compensation for that line. This refers to the original construction line, not the new line. There are two types of people outside the city limits. One is a developer, and a developer has a mechanism currently for them to return their investment by selling the property and recoup that cost. We also have individuals who would have to foot the bill to run the line for us to serve their property, but they don’t have a way to recoup that cost other than waiting for the neighbors to hook on. This says we will allow them to do that. This principal is not new. The current language is for a fifteen year date of payback. I have increased that to twenty years to give a little more incentive. We cannot simply amend the 2007 resolution. What you have is Resolution 13-005 to approve these changes.

DISCUSSION:

Preston Lee asked what would happen if a developer already had a sewer system approved by the County. I assume that this design as to be approved by the City.

Darrin Gordon said that that process of getting it developed will still have to happen. If they do not have the pre-annexation agreement, I would have to stop construction.

James Richmann asks in regards to getting customers off septic and onto sanitary sewer, why do we care if they are signing a pre-annexation agreement?

Discussion ensues on this topic, specifically in regards to Highland Acres, and discussion includes clarification of the 2007 resolution. Glenn Mandalas gives an explanatory summary of the resolution.

Glenn Mandalas reads the resolution. Exhibit B shows the exact changes that would be made. In the third paragraph, line 184, there would be the insertion of the phrase “prior to the start of utility construction.” I am relating to the time by which the pre-annexation agreement must be signed. Also, on the second page, line 252, strike the word “fifteen” with the parenthesis, and insert the word “twenty” with the parenthesis. I am indicating the time for which the reimbursement can occur.

ACTION:

Jack Leshner makes a motion to accept Resolution -#TBD, which is a resolution of the Board of Public Works of the City of Lewes to amend the procedure of application for utility services for areas beyond the city limits. Preston Lee seconded, President Alfred voted “for”, and the motion was carried.

8. Open forum/general discussion of BPW emergency preparedness. (D. Gordon)

INFORMATION/DISCUSSION:

Darrin Gordon said I do not have any action planned on this. You have in your packets the new BPW Response Plan, which has been reviewed and updated very carefully. Most importantly the contacts have been updated. There have been additions to the mitigation team. We have had NIMS training. NIMS stands for National Incident Management System, that allows inter-agencies to communicate clearly and response as a full team.

Jack Leshner asked if this is only being done by governmental entities, or is there encouragement for private organizations to join as well? For example, the Yacht Club.

Darrin Gordon said it is mainly government entities.

Mayor Ford said that we do have an outreach program, and we welcome conversation with any organization that would like to do that. The Historical Society put together emergency measures, and we work with Harbor Healthcare as well.

James Richmann said that The Historical Society has put a huge emphasis on preparation, and then it defers to the City plan.

Darrin Gordon discusses certain topics including available fuel and back up vendors for fuel, standby generators vehicles maintenance and ready to go including tires, radio communications, intergovernmental agreements and bridges both state and local for electric and sewer, and preparation of staff for extra hours and bookkeeping needs. Our whole staff is now considered first responders and assessment is our responsibility. We now have a plan for the wastewater treatment plant if the operator is gone for an extended period of time. Another topic is making sure the first responders show up, and to make sure that their families are taken care of so that they can respond. There are communities in the Outer Banks and some islands where they shut off the power when a storm is coming. There was a rumor that the BPW was going to do this. On a normal day we have a triple shot system, which is a safety feature on all electric systems. When we know that a storm is imminent, I switch it to a single shot.

Preston Lee asked if preparing for global warming is part of this mitigation planning team.

Mayor Ford said yes, global warming, included sea level rise, are part of mitigation planning. He mentions flood insurance, reclassification of flood zones, and modifying building codes. Utilities are part of this.

9. Open forum/general discussion of seeking help from the State Department of Economic Development in discovering options for usage of the Schley Avenue/Power Plant property. (D. Gordon)

INFORMATION/DISCUSSION:

President Alfred said to Mayor Ford that we are unclear as to what we can do or what the City wants us to do. There has not been a decision if the City is going to run the Power Plant or if you are giving it up to us to run.

Mayor Ford said we had a joint meeting and a presentation, but there was no direction after that.

Discussion ensued regarding the City owning the building. If the BPW is maintaining the building but not using it for anything, it is costing the BPW money. People are interested in it. Suggestion to get opinions from the public and get the ball rolling.

Darrin Gordon said I would like to present this to the State Economic Development. There would not be a commitment, but see if there would be any use or interest for this property. My main concern is that something that is not used deteriorates faster than something that is used.

Preston Lee said we should discuss our thoughts about it at the upcoming Workshop. The first decision we have to make is if it is not something that is being used directly by the BPW, do we even want to bother with it. Do we want to go out and market it through the development office, or is that a City function?

James Richmann said since that presentation, my enthusiasm for redevelopment of that property has been dampened. I think we need to take a 25-50 year horizon look at it. There may be an economic value to the Board for preserving our options for the future. I thought a parking lot or community garden would be a great way to preserve it. At the joint meeting some of the neighbors were not happy with the idea of a parking lot.

President Alfred asks Mayor Ford: Based on what the General Manager is asking and since it is a BPW building, even though we don't own it, but if we keep that building maintained, why couldn't we possibly find a user for that building?

Tom Owen asks what exactly the BPW's authority relevant to that property is. Do we have the ability to turn it back over to the City if we decide we do not want to spend the money to maintain it?

Glenn Mandalas said the property is deeded in the name of the City. It is City property. I hope that anything that is done with it would be a conversation between both bodies.

James Richmann said I would like to see the City pass a resolution, perhaps not even a binding resolution, that would say that this is City owned property, but it is reserved for the BPW for their purposes in accordance with the BPW's charter, and in exchange for that, the BPW will continue to maintain and make improvements on that property. In the next 25-50 years, we always know that if we need it, we have it.

Preston Lee said I think that is premature and we have to discuss in detail options for usage first, among ourselves and with the public.

Mayor Ford said the building is deeded in the name of the City; the building has been used since 1901 by the BPW. As long as the BPW had a continued use for it, and it was deemed justifiable by the Council, and if there is not an immediate need that would benefit the community beyond that, then to me it's status quo. Maybe a larger question would be is it prudent for the BPW to use that facility in a different way as property managers. I think you are then going to a different level of responsibility. I think the resolution you mentioned is something that would clarify the position that is somewhat assumed.

James Richmann said if we continue maintaining the property and making leasehold improvements with no assurance that it is going to be available for legitimate BPW purposes in accordance with our future needs, then we are not being fiscally responsible to our ratepayers.

Mayor Ford said there has been a working relationship that has been established that we continue with as long as there is a justified need and use for that building by the BPW. The Board can determine maybe not one need, but several needs that are affiliated with the use and needs of the Board, bring that back and present, and maybe we can come to some resolution or written agreement.

James Richmann discusses the eventual need for the mitigation of chemical testing.

Tom Owen suggests first developing a schedule for what needs to be done to get started on this.

President Alfred would like to call a Special Meeting or Workshop in January just for this purpose, or include this topic in the scheduled Workshop.

10. Open forum/general discussion of a representative attending and speaking at the Lewes Homeowners Association on January 31st, 2014. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Darrin Gordon said there has been a request that I attend and speak at an HOA meeting. I cannot attend this meeting. Mr. Richmann has been invited to attend. I invite the Board to figure out how to handle this.

Mr. Morgan, Lewes HOA Board Member:

The topic is the effect of development in and around Lewes. Since the Board has a substantial part of the City's infrastructure, we wanted to invite someone to sit on the panel, not to speak on behalf of the BPW, but because they are part of the BPW.

Mayor Ford said I appreciate the HOA taking these steps and moving forward to having an open conversation about the concerns of the development in the area. My concern is putting a Board Member, City Council, or even an appointment commissioner in a difficult position of being part of this discussion and then later being a voting member for decision making and potentially being challenged by the applicant should that voting have a negative effect on a developer. A generic type of information sharing is probably okay, but then drawing a line on that and getting into more specifics and detailed conversation could be touchy.

Mr. Morgan:

We just want someone to come because you are best informed about infrastructure challenges. Our goal is not to illicit any kind of views from the panelists. We do need people who can answer questions.

Discussion ensues about the pros of cons of an elected official attending a public meeting.

Glenn Mandalas said there is not an issue stating general information such as policies, but the problem arises when the

discussion starts migrating into hypotheticals. It's a fine balance between accessibility and knowing the limits. There could be possible bias and legal ramifications depending on the nature of the discussion and how far it goes.

James Richmann said we are probably on safer ground if Darrin Gordon or Heidi Wagner were to represent the BPW. But there can be no confusion over any future votes.

Discussion ended with the request to Mr. Morgan to find out if the meeting date is flexible so that Darrin Gordon can attend to represent the BPW

11. Meetings Attended by Board Members or Staff.

Preston Lee attended the Capital Projects Committee, Monroe Avenue and Angler's Nests Progress Committees, and Highland Acres Community Group.

President Alfred said our Open House and Ribbon Cutting at new Water Treatment Plant went off without a hitch and was well attended.

Jack Lesher attended the Lewes Planning Commission, as an ad hoc member, the Flood Management and Coastal Resilience Meeting with Darrin, and also with the Darrin the conference in Dover regarding the Complete Communities in Delaware.

Jim Richmann met with Representatives of Blue Ocean Systems along with Darrin to advance the work on our financial accounting system.

President Alfred, along with Darrin Gordon and Glenn Mandalas, met with officials of the hospital concerning the new generation they are asking for.

12. Board or Staff Requests for Agenda Item(s).

Discussion of the date for a Board Workshop discussing the 5 year strategic plan-including debt reduction, property usage, nutrient trade efforts,.....etc.

It was decided that the Board Workshop would be held on January 24th beginning at 9:00 AM.

13. Call to the Public.

No comments or questions.

14. Call to the Press.

No comments or questions.

15. Adjournment.

President Alfred adjourned the meeting at 8:58 PM.

Respectfully Submitted,
Stephanie Moyer